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DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING NOTICE:	BOARD OF DENTISTRY & DENTAL HYGIENE
DATE AND TIME:	Thursday, August 28, 2014 at 6:00 p.m.
PLACE:	Cannon Building, Second-Floor Conference Room A 861 Silver Lake Boulevard, Dover, DE 19904
MINUTES APPROVED:	October 16, 2014

CALL TO ORDER

Dr. Lenz called the meeting to order at 6:00pm

DENTAL HYGIENE EXAM APPEAL HEARING – Lauren Biliski

Dental Hygiene Exam Appeal Hearing

BOARD PRESENT:

John Lenz, DDS, Sharon Welsh, DDS (Examiner),
Buffy Parker, RDH (Examiner), Brian McAllister, DDS
(Examiner)

2014 APPEAL PANEL:

Amit P. Patel, D.M.D., Rumiko Nelson, RDH, Dr. Mary Lomax,
Ed.D

PRESIDING:

John Lenz, DDS, President

BOARD STAFF:

Amanda McAtee, Administrative Specialist II
Flora Peer, Administrative Specialist II

BOARD COUNSEL:

Jennifer Singh, Deputy Attorney General

APPELLANT:

Lauren Biliski

REPRESENTATIVE FOR THE APPELLANT: Barry Eveland

PUBLIC PRESENT:

None

COURT REPORTER:

Vera Sietz, Wilcox and Fetzer

PURPOSE:

Appeal of Failure of Practical Examination

The hearing began at 6:00 p.m. The court reporter took verbatim testimony. DAG Jennifer Singh introduced herself and stated the purpose of the hearing. The panel members introduced themselves for the record.

The exhibits, which were introduced into evidence without objection, were made part of the record and considered by the Board. The following exhibits were admitted into evidence: Appeal Exhibit 1 consisting of the Examination Guidelines for the examiners; May 2014 Examination schedule and candidate letter; Candidate examination package; Exam score sheets for Lauren Biliski; and July 22, 2014 letter from Amanda McAtee to Ms. Biliski noticing her of the Appeal Panel hearing.

Appeal Exhibit 2 consisting of copies of the x-rays taken by Ms. Biliski for the radiograph portion of the examination

In addition to the documentary evidence, the Board considered the sworn testimony of Lauren Biliski and three witnesses. Prior to Ms. Biliski's presentation, the Board president, Dr. John Lenz provided sworn testimony to the panel and Ms. Biliski regarding the examination and scoring process. Dr. Lenz stated that the object of clinical examination is to test for minimal competence. Each section is weighted from 5-60 points. The total number of points that an examinee can receive is 100. Some sections allow for errors before points are deducted while others do not. If an examinee goes beyond a threshold number of mistakes in those sections which allow for errors, she will not receive any points for that particular section, such that one examiner could determine that an examinee committed one more than the threshold number of mistakes and not award the examinee any points, and another examiner could determine that the examinee committed one less error and award the test taker the total number of allowable points for that section. There are three examiners whose scores are tallied and averaged. Seventy-five points is passing.

Ms. Biliski then testified under oath that she is licensed and works in Maryland but lives in Delaware with her family and would like to work and contribute to her community in Delaware. Ms. Biliski stated that she does not understand why three licensed professionals could score her differently on the same examination. Ms. Biliski pointed to two areas of alleged inconsistency, the radiograph scores and the subgingival calculus scores. In the radiograph section, examiners Dr. McAllister and Ms. Parker docked Ms. Biliski two points and examiner Dr. Welsh docked Ms. Biliski four points. In the subgingival calculus section of the examination, Dr. Welsh scored Ms. Biliski zero points out of 30, and Dr. McAllister and Ms. Parker scored Ms. Biliski 10 points out of 30. Ms. Biliski did not testify as to how or why she should have received more points in that section, she simply argued that there was a discrepancy amongst the scores she was awarded.

Ms. Biliski then called Dr. McAllister to testify in regard to his scores in the radiograph section of the examination. Ms. Biliski asked Dr. McAllister if he stood by his score of 18 out of 20 on the radiograph portion of the examination. Dr. McAllister testified under oath that in retrospect, he could have taken an additional two points off her score, but he elected to only take away points in one subsection of the x-ray portion of the exam. He stated that the presence of elongation in some of the x-rays is ground to take points away in two areas, but he did not want to detract from her score in multiple sections for the same mistake. He stated that he could have taken four points off in a different subsection as Dr. Welsh did, but he opted not to.

Finally, Ms. Biliski called Dr. Welsh to testify in regard to her scores in the radiograph section of the examination. Ms. Biliski questioned Dr. Welsh as to why she awarded fewer points than the other two examiners. Dr. Welsh provided sworn testimony that there is clear

elongation in the x-rays that is grounds to subtract four points from the score, and she does not believe she scored the examination in error.

The Appeal Panel considered the documents presented as well as the testimony of Ms. Biliski, Dr. McAllister, and Dr. Welsh. The Panel found that the evidence presented in regard to grading the radiograph section of the clinical examination established that Ms. Biliski was awarded sufficient points, and if anything, additional points could have been subtracted from her final score. The Panel further found that Ms. Biliski did not present any additional relevant evidence establishing that her examination was incorrectly scored. In other words, there was no evidence that points were subtracted when they should not have been.

Based upon these findings of fact, the Panel concluded that Ms. Biliski did not sustain her burden of proof in rebutting the presumptive correctness of her examination scores. The Panel concluded that Ms. Biliski's examination was not scored incorrectly thus upholding the Board's finding that Ms. Biliski failed the Delaware dental hygiene clinical examination administered on May 23, 2014.

The Panel found by unanimous vote of its members, after consideration of the above criteria, that clear and convincing evidence was presented to support the denial of Lauren Biliski's appeal of her failure of the practical examination administered by the State Board of Dentistry and Dental Hygiene.

The hearing concluded at 7:56pm